

CALIFORNIA FRANCHISE TAX BOARD

Legal Ruling No. 204

September 13, 1957

SUSPENDED CORPORATIONS: REVIVOR UNDER SECTION 26072.5

Syllabus:

An exempt corporation which performs the conditions attaching to the operation of Section 26072.5 has an irrevocable right to cancellation of the taxes for the years in question and to revivor without regard to the provisions of Section 23305.

In previous years exempt corporations have been suspended for nonpayment of taxes which were assessed by reason of their failure to file the loyalty oath required by Section 23705. Section 26072.5, as now amended by the 1957 legislature, provides that if a loyalty oath is filed by May 15, 1958 the taxes for which suspension occurred may be cancelled or refunded. Filing of the oath within the specified time creates an irrevocable right to cancellation of the taxes for the years in question and, consequently, to a revivor of the corporate status.

Section 23305 provides that before any suspended taxpayer may revive it must pay the tax and interest "for nonpayment of which the suspension or forfeiture occurred . . . ". This section is not to be construed as a limitation on the operation of Section 26072.5 because one of the primary purposes of the latter section was to provide exempt corporations with a method of restoring themselves to good standing without payment of the taxes which were assessed because of the failure to file the oath. When Section 23305 speaks of "payment" it has reference to the amount remaining due and payable at the time the revivor is sought. Section 26702.5 provides for cancellation of the assessed tax if the conditions provided therein are performed and consequently no further tax has to be paid under Section 23305.